IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5377 OF 2004
IN
CRIMINAL APPEAL NO. 643 OF 2004

Pralhad Kisan Disale. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Nitin Pradhan with Ms.S.D.Khot for the applicant.

D.D.Adsule for the respondents.

CORAM : D.G.DESHPANDE, J.

DATED : 3rd February, 2005.

P.C. :

. Heard learned counsel for the applicant-accused and learned A.P.P. for the State.

2. Earlier bail application made by this accused was rejected by me by order dated 5th July, 2004 and, therefore, this fresh bail application has been entrusted to me. Mr.Pradhan, learned counsel for the accused contended that when he argued earlier bail application No.2549 of 2004, the record and proceedings were not available either with the Court or with him. After the said order, he got the copies of entire evidence and annexed with this fresh application. He contended that if it was the case of the complainant - victim that on 5th December, 2000 at night when he was passing from the road this accused No.1 had a can in his hand and he

threw something like acid on his face, then there should have been injuries on the other parts of the face or body. However, Mr.Pradhan contended that surprisingly enough the acid went only in the eyes of the victim affecting his eyesight. He contended that, looking to the manner in which the assault was alleged, the substance like acid in a can was thrown on the victim, it is impossible that there is no injury on the other parts of the body or face. Mr.Pradhan drew my attention to the injury report and also to the certificate issued by the Doctor.

3. Learned A.P.P., however, contended that there is no evidence on record to show that acid was used so as to cause number of injuries on the face or on the body. He contended that it might be some other substance. However, the crucial question is when the substance or material that was used by accused No.1 was in the can and it was thrown on the face of the victim, then there ought to have been surrounding or corresponding injuries on the other parts of the face or the body. There are absolutely no injuries on the body of the victim excepting injury in the eyes. Mr.Pradhan contended that in the incident if at all both the eyes of the victim have been injured then it appears that some drops of the substance or material which was used must not

have dropped in the eyes only and that will falsify the prosecution case.

4. The fact remains that at least so far as bail application is concerned, the version given by the victim - complainant (P.W.No.1) creates doubts about the manner in which the assault took place. Absence of any injury on the other parts of the face or body creates doubt. These submissions were not made before me earlier. Hence this application is required to be allowed. Hence I pass the following order:

O R D E R

. The application is allowed.

. Applicant - accused be released on bail on his furnishing P.R.Bond of Rs.10,000/- (rupees ten thousand only) with one solvent surety in the like amount .

. He will attend the concerned police station i.e. R.C.F. Police Station once in a fortnight for six month and thereafter once in a month till the appeal is disposed of.

. All the concerned to act on authenticated copy of this order.